APPENDIX A

VIRGINIA: -

IN THE CIRCUIT COURT FOR THE COUNTY OF HANOVER.

HANOVER SOCIETY FOR THE DEAF, INC.,

PLAINTIFF,

v. IN CHANCERY NO. 54-93

BOARD OF SUPERVISORS OF HANOVER COUNTY,

DEFENDANT.

FINAL ORDER

THIS MATTER came before the Court upon Plaintiff's appeal from the decision of the County Administrator denying Plaintiff's application for a bingo permit, the answer of the Defendant, the memoranda of both parties, documents from the County's Administrative files

submitted by both parties and the transcript of the administrative hearing held by the County Administrator, and was argued by counsel on March 10, 1993.

UPON CONSIDERATION WHEREOF, the Court finds that the decision of the County Administrator should be affirmed and the Plaintiff's appeal and request for Injunctive relief should be denied for the reasons stated in the County's memorandum and oral argument and for the additional reasons stated by the Court from the bench; accordingly, it is, therefore

ADJUDGED, ORDERED and DECREED that the decision of the County Administrator in this matter be affirmed and that the Plaintiff's appeal and request for Injunctive relief is denied. The interim

order of this Court permitting Plaintiff to continue to conduct bingo games while its appeal to this Court was pending is of an appeal from this Court is DENIED. It is further ORDERED that the transcript of the hearing on this date be made part of the Court record in this matter. This case is hereby DISMISSED with prejudice and the Clerk is directed to strike this action from the docket and send copies of this ORDER to all counsel of record.

Enter: 3/12/93

/s/ Richard H. C. Taylor

Judge

I ask for this:

/s/ Sterling E. Rives, III

County Attorney

P. O. Box 470

Hanover, Virginia 23069

Seen and objected to:

/s/ Robert S. Ganey, Esq.

Route 301

Hanover Courthouse

Hanover, Virginia 23069

A Copy

Teste:

Richard L. Shelton, Clerk

/s/ Judith M. Tomes

Deputy Clerk

Appendix B

VIRGINIA:

IN THE SUPREME COURT OF VIRGINIA HELD AT THE SUPREME COURT BUILDING IN THE CITY OF RICHMOND ON THURSDAY THE 3 RD OF JUNE, 1993.

HANOVER SOCIETY FOR THE DEAF,

Appellant,

against Record No. 930389

Circuit Court No. C-54-93

BOARD OF SUPERVISORS OF HANOVER COUNTY,

Appellee.

From the Circuit Court of Hanover County

Upon review of the record in this case and consideration of the argument

submitted in the support of and in opposition to the granting of an appeal, the Court is of opinion there is no reversible error in the judgement complained of. Accordingly, the Court refuses the petition for appeal.

A Copy,

Teste:

David B. Beach, Clerk

By /s/ Deputy Clerk

Appendix C

VIRGINIA:

IN THE SUPREME COURT OF VIRGINIA HELD AT THE SUPREME COURT BUILDING IN THE CITY OF RICHMOND ON FRIDAY THE 30 TH OF JULY, 1993.

HANOVER SOCIETY FOR THE DEAF,

Appellant,

against Record No. 930389

Circuit Court No. C-54-93

BOARD OF SUPERVISORS OF HANOVER COUNTY,

Appellee.

Upon a Petition for Rehearing

On consideration of the petition of the appellant to set aside the judgement rendered herein on the 3 rd day of June,

1993 and grant a rehearing thereof, the prayer of the said petition is denied.

A Copy,

Teste:

David B. Beach, Clerk

By /s/ Deputy Clerk

Appendix D.

Amendments to the United States Constitution:

V. No person shall be held to answer for a capital , or otherwise infamous crime, unless on a presentment or indictment or a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time or war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

IX. The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

XIV. -- Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are

citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Appendix E

Codes of Virginia

Section 18.2-340.1 Definitions -- The following words shall have the following meanings:

(1) "Organization" means any one of the following:

(A) A voluntary fire department or rescue squad or auxiliary unit thereof which has been recognized by and ordinance or resolution of the political subdivision, where the voluntary fire department or rescue squad is located as being part of the safety program of such political subdivision.

(B) An organization operated exclusively for religious, charitable, community, or educational purposes; an association of

war veterans or auxiliary units thereof organized in the United States; or a fraternal association operating under the lodge system.

Section 18.2-340.6 (B) (2) The financial report shall be accompanied by a certificate, verified under oath, by the Board of Directors that the proceeds of any bingo games or raffles have been used for those lawful, religious, charitable, community or educational purposes for which the organization is specifically chartered or organized and that the operation of bingo games or raffles has been in accordance with the provisions of this article.

(3) Any organization having annual gross receipts from bingo games or raffles in excess of $500,000, as shown on its annual financial report, shall attach to

such report an opinion of a licensed independent certified public accountant that (i) the annual financial report presents fairly, in all material respects, beginning cash, receipts, operating cost, use of proceeds, and ending cash; (ii) the proceeds of any bingo games or raffles have been used, in all material respects, for those lawful, religious, charitable, community, or educational purposes for which the organization is specifically chartered or organized; and (iii) the gross receipts have been used in all material respects in accordance with the provisions of this article. The failure to file the opinion of a licensed independent certified public accountant, when required, shall cause the automatic revocation of the

permit and no organization shall conduct any bingo game or raffle thereafter until the opinion required by this subdivision is properly filed with the report and a new permit is obtained. The opinion required by this section is in addition to the audit and audit fee required by Section 18.2-340.7.

Section 18.2-340.9 Prohibited practices. In addition to those other practices prohibited by this article, the following acts or practices shall also be prohibited under the provisions of this article:

(A) Except for reasonable and proper operating costs, including costs associated with providing clerical assistance in the conduct of bingo games or raffles for organizations composed of or for deaf or blind persons, publicizing

the time and place of bingo games and raffles, and prizes, no part of the gross receipts derived by and organization, as herein defined, permitted to conduct bingo games or raffles may be used for any purpose other than (i) those lawful, religious, charitable, community, or educational purposes for which the organization is specifically chartered or organized and (ii) expenses relating to the acquisition, construction, maintenance, or repair of any interest in the real property involving the operation of the organization and used for the lawful, religious, charitable, community or educational purposes.

Section 18.2-340-10 Denial, suspension, or revocation of permit; penalties. -- The governing body of the political

subdivision where a permit was issued, or the local official or board designated by the governing body, may deny, suspend, or revoke the permit of any organization found not in strict compliance with the provisions of this article.

Any person violating the provisions of this article shall be guilty of a Class 1 misdemeanor. Any person violating the provisions of Section 18.2-340.9 (A) shall be guilty of a Class 6 felony.

Section 18.2-340.12 Hearings and appeals. -- No permit to conduct bingo games or raffles shall be denied, suspended or revoked except upon notice stating the proposed basis for such action and the time and place for a hearing thereon. After a hearing on the issues, the local governing body or local official or board designated by the

governing body may refuse to issue or may suspend or revoke any such permit if it determines that the organization has not complied with the provisions of this article. Any organization aggrieved by the decision of the local governing body, or of the local official or board designated by the governing body, may appeal such decision to the circuit court.

Appendix F.

Denial Letter to Petitioner: From Respondent: Dated February 9, 1993

February 9, 1993

Mr. Robert D. Eddleton
Secretary/Treasurer
Hanover Society for the Deaf
Route 8, Box 1185
Ashland, VA 23005

Dear Mr. Eddleton,

I have considered the information you provided at the Hanover Society's bingo appeal hearing which was held yesterday in my office.

During the hearing you provided a membership list and a satisfactory health

inspection report. You also provided a copy of a recorded deed, dated February 4, 1993 which apparently transfers the Jamaica Club property from Beauford and Evelyn Eddleton to the Hanover Society for the Deaf. You also indicated a willingness to correct some past errors. Specifically, you indicated that you would reimburse the Society for computer game software and Price Club memberships. You also said that you would make an attempt to refinance the existing 20% mortgage with your father at a lower interest rate, and that you would improve internal controls and stop destroying nightly game logs.

The actions you have taken since my letter of January 29, 1993, and the actions you have promised to take in the

future, address some of the specific concerns that I had. However, despite these actions, my basic conclusion about the Society's bingo operation remains unchanged.

It is my conclusion that the Jamaica Club bingo games are not "operated exclusively for religious, charitable, community or educational purposes," as required by law.

During the past twelve months, the Society took in gross receipts of $800,152 from bingo games. The "charitable donations" consisted of $2,547 in catering fees paid to your mother for a hearing impaired event, $250 for an interpreter and $72 for a puppeteer at that event, and $640 to other charities. Excluding the related-party payment and the gifts to other

organizations, the amount that benefited the deaf was $322 or 0.04%. This token charitable expense does not justify the renewal of your bingo permit.

During the hearing, you repeatedly asserted that the mortgage payments should be considered charitable, since the Society is acquiring a valuable asset. You fail to explain, however, why the Society would spend so much to acquire an asset (the Jamaica Club) that is used only one day per year for an event that benefits the hearing impaired. What about the other 364 days of the year? I simply fail to understand how hearing impaired persons are benefiting from the $53,539 in annual mortgage payments (at 20% interest) that go to your father. This use of proceeds cannot

be considered charitable. Furthermore, the fact that this property was originally conveyed to the Society in 1981 by an unrecorded "pocket deed," that it was conveyed to your mother in 1986 by a deed recorded at the Courthouse and that it was conveyed to the Society by a deed recorded only last week raises doubts as to whether it has ever been intended that the Society own the property.

As I indicated in my letter of January 29, 1993, the record of the Society over the past twelve months has been poor. The destruction of game logs, the poor record-keeping, the poor sanitation, the excessive, unrelated, and inappropriate expenditures, the memberships and payments provided to family members, the excessive interest on

the mortgage with your father, the curious history of conveyances of this property, and the pitiful efforts to benefit charity make the Hanover Society unworthy of a renewed bingo permit.

Finally, I am now aware that you have mounted an effort to sign up "non-voting associate members" at the door during bingo games, beginning last week. This apparently is an effort to get around the law that limits the use of pull-tab devices to closed meetings of members and their guests. My definition of a "member" is not anyone who signs a book the night of a bingo game and pays an extra dollar fee.

Your recent creation of "quasi-members" appears to be a scheme to avoid the requirements of the law while

maintaining voting control of the Society within the Eddleton family. This new approach is further evidence that the Society is not a legitimate charity, with members who are devoted to assisting the deaf, but rather a bingo operation created by and for the Eddleton family.

In conclusion, the permit renewal application is denied. You may appeal my decision to the Circuit Court.

Sincerely,

/s/ John F. Berry
County Administrator
JFB/ba
cc: V. Stuart Cook, Sheriff
Sterling E. Rives, III, County Attorney
Eddie R. Vaughan, Commonwealth's Attorney

APPENDIX G

ASSIGNMENTS OF ERROR

1. The Court erred by failing to find that the County had violated the Society's Constitutional rights under the Fifth and Fourteenth Amendments to the United States Constitution and the Virginia Constitution. In particular, its due process and equal protection rights were violated (Tr. page 102 thru 104).

2. The Court erred by failing to find that the County abused its discretion, violated Constitutional and Statutory provisions, acted in excess of its jurisdiction, misconstrued and made errors of law, conducted proceedings that

were irregular, and, finally that County's findings are arbitrary, capricious and unreasonable (Tr. page 110).

3. The Court erred by finding that the County's decision is supported by the evidence (Tr. pages 100, 104 thru 106).

4. The Court's decision is plainly wrong and, in fact, based on the Court's biased statement that it does not like bingo (Tr. page 109, Lines 11-16).

5. The Court erred by failing to follow the law as set forth by the Society and not disputed by the County which cited no cases in its Memorandum.

6. The Court erred by adopting the County's position on use of percentages when the law concerning use of proceeds percentage has not been adopted by local ordinance (Tr. page 110, County

Administrator's file, page 4).

7. The Court erred by not accepting the Society's contention that the Society was treated unfairly compared to other permit holders (Tr. pages 101 thru 104).

8. The Court erred by refusing to allow witnesses to testify at the March 10, 1993 hearing (Tr. pages 22, 34, line 18).

9. The Court erred by refusing to grant the Society's Motion for Summary Judgment, and for cutting the Society off in the middle of making said Motion (Tr. page 20).

10. The Court erred by refusing to accept the 1985 letter of Lisa Barker indicating the County knew all about the 1981 real estate transaction despite positions taken on Page 15 of County

Memorandum that it did not know until 1992 (Tr. page 34).

11. The Court erred by refusing to accept the Society's newspaper articles on interest rate and transcript of the public hearing on January 6, 1993, at which time County agents spoke on the issue of pull tab devices (Tr. page 14).

12. The Court erred by failing to recognize that all eleven (11) points of the County's denial letter were cured or legally unenforceable (Tr. page 15).

13. The Court erred by personal reference to its feelings towards bingo and its false reference to numerous other years proceedings, and to a partially built building, when only two (2) prior hearings (1981 and 1985) occurred, and, there is no partially built building on the Society's property (Tr. pages 103,

109, and 110).

14. The Court erred by stating the County can act carte blanche in these matters (Tr. page 110).

15. The Court erred by not considering letters of support from hundreds of citizens and from the interpreter (Appellant's Addendum pages 102, 140-168).

16. The Court erred by refusing to grant a stay pending Appeal (Tr. page 111).

17. The Court erred by saying (Tr. page 99, lines 2-5) that the building was not used for charitable purposes, while disregarding that the fact that it is available to deaf people to come over at any time, it is used for the annual seminar, where the Society holds its

Bimonthly organizational meetings, and eventually the building will be owned by the Society (Tr. page 99).

18. The Court erred (Tr. page 99, Lines 17-21) by making vague references to 1980, 1981, 1985, hearings about complying since the Society was never shown not to be in compliance with anything at that time and those cases were limited to various issues (rent and access to operating account) outside the scope of the issues in this case (Tr. page 110).

19. The Court erred by saying the Eddleton family wants to do everything the "hard way", because the Society has always acted in a legally correct manner (Tr. page 100).

20. The Court erred by finding that there is no record of income, proceeds,

cash that was the concern in 1985, (Tr. page 100, Lines 21-23), because all quarterly and annual reports listing proceeds, cash and expenditures have always been fully approved by the County. (Appellant's Addendum page 117, 118, 119, 120, county administrator record page 16). The Court's reference to 1985 had nothing to do with the facts of this case. All reports of cash and disbursements have always been approved by the County (County's administrative record page 69, 70, 71, and pages 135-177).

21. The Court erred by referring to the rent in 1981 (Tr. page 101, line 8), since on independent M.I.A. Appraisal verified at the time that the rent was proper.

22. The Court erred by finding that Mr. Ayers shrewdly violated the bingo law (Tr. page 101, Lines 12 and 13), because the real estate transaction was perfectly lawful and the Court even refused to hear from Mr. Ayers.

23. The Court erred by finding (Tr. page 110, lines 15-20) the County "has allowed Society time to correct its situation, has reviewed it, and it still comes up with the fact that the Society doesn't comply with the Statute and Ordinance because there is no evidence to substantiate the finding that the Society was given time in 1992 to comply and no evidence that the Society is not in compliance with any Statutes or Ordinances.

Appendix H

Letter from Lisa Barker, Assistant Attorney for Respondent to Robert S. Ganey, Attorney for Petitioner.

August 23, 1985

Robert S. Ganey, Esquire
P.O. Box 174
Hanover, VA 23069

Re: Hanover Society for the Deaf Bingo Permit

Dear Mr. Ganey:

Some time ago you requested that I give you written confirmation of my review of documents pertaining to the above matter, which you delivered to me at my request. Those documents consist

of a note executed by Robert D. Eddleton for Hanover Society for the Deaf, Inc., dated September 18, 1981; an agreement dated September 18, 1981 between Beauford D. Eddleton and Evelyn J. Eddleton and Hanover Society for the Deaf, Inc.; and a deed of trust dated September 18, 1981 between Mr. and Mrs. Eddleton and Charles E. Ayers, Jr. and Stephen L. Dalton. The effect of these documents is that Hanover Society for the Deaf, Inc. makes payments pursuant to an agreement and escrow agreement, essentially constituting an installment sale contract. The Society has the right to use the Jamaica Club property during the period of the agreement, which provides for full payment by September 1, 2011 of the amount of $267,000.00 plus interest at the rate of twenty percent, in

addition to an initial $40,000.00 cash payment. The only question these documents raise in my mind is a reference, which appears to be an inadvertent error, in the note. The fourth paragraph contains reference to a deed of trust securing the note. I do not have a deed of trust executed by Hanover Society for the Deaf, Inc., securing that note. I would appreciate some explanation of that inconsistency.

My reason for reviewing these documents is a requirement contained in Virginia Code Section 18.2-30.9(A), that gross receipts of bingo games and raffles be used only for certain purposes. Hanover Society for the Deaf, Inc. makes payments on the note from gross receipts. The documents that I have reviewed

indicate that payments on that note constitute expenses relating to the acquisition of an interest in real property, as referred to in Section 18.2-340.9(A)(ii). That section further requires that the real property must involve the operation of the organization and be used for lawful, religious, charitable, community or educational purposes. As we discussed some time ago, we need documentation of the use of the property for "the operation of the organization and (use) for lawful, religious , charitable, community or educational purposes." I would suggest that such documentation may include schedules of use verified by an officer of the Society or some other information. I would appreciate your submitting that information to either Rhu Harris or me.

If I may be of help in this matter, please let me know.

Thank you for your assistance.

Sincerely,

/s/ A. Lisa Barker

Assistant County Attorney

ALB/rs

Encl.

cc; Cecil R. Harris